

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

In the Matter of the:

Petition of the Wisconsin Central Ltd. for the Alteration of a Public Crossing of the Wisconsin Central Ltd. Tracks with Penny Road in the Town of Amherst, Portage County

9164-RX-551

PROPOSED DECISION

By letter dated March 26, 2004, the Wisconsin Central Ltd. petitioned the Office of the Commissioner of Railroads (OCR) for the alteration of a public crossing of Penny Road with its tracks located in the Town of Amherst, Portage County (crossing no. 692 501N / MP 231.34).

Jurisdiction: Secs. 195.28 and 195.29, Stats.

Pursuant to due notice, public hearing was held in this matter on June 23, 2004 in Madison, Wisconsin with hearing examiner Douglas S. Wood presiding.

Appearances:

**Parties**

Wisconsin Central Ltd., Petitioner  
by  
Michael Barron, Attorney  
17641 S. Ashland Avenue  
Homewood, IL 60340

PROPOSED FINDINGS OF FACT

The Wisconsin Central Ltd. proposes to alter the public crossing of Penny Road with its tracks located in the Town of Amherst. The WCL plans to extend its Nelson's Siding through Penny Road. The siding would be 15' from the existing mainline track.

Penny Road is about 18' wide and intersects the track at an angle of about 70°. The crossing presently consists of one mainline track.

Penny Road carries about 10 ADT (average daily traffic). Penny Road T-intersects Buchholz Road about 45' from the main line track. The siding extension would be built on the west or Buchholz Road side so this storage distance would be further reduced if the siding were extended.

The railroad currently operates about 20 to 24 through train movements per day over the Penny Road crossing location at a maximum timetable speed of 60 mph. Trains going onto the siding travel at a maximum timetable speed of 25 mph.

The existing siding is 7914' in length (clear distance). It extends from MP 233.02 to MP 231.48. The Penny Road crossing is at MP 231.34, about 740' south of the end of the siding.

The project would extend the siding 2,126' to the south. The extended siding would be 10,040' in length (clear distance). It would extend from MP 233.02 to MP 230.97. The siding extension would cross Penny Road. The crossing would be about 1950' from the end of the siding.

The WCL is currently extending sidings at various locations across the state in order to improve the efficiency of its operations. Passing sidings are needed because a single main line track functions like a one-way road. Passing sidings allow one train to get off the main line track and allow a train moving in the opposing direction to pass. The railroad frequently operates trains 10,000' in length. The existing siding is too short to be used by many of the through trains the railroad operates.

Extension of the siding would change the way the railroad uses this siding. At present, the railroad uses the siding as a passing track for shorter trains and also to set out cars for nearby switching operations. The cars that are set out may sit for several hours at a time. If the siding were extended it would not be used to set out cars, except in very exceptional circumstances, because that would eliminate its utility as a passing track. Extension of the siding would not increase the number of trains operating at this location.

The railroad estimates that the extended siding would be used by 4 to 6 trains per day. The railroad estimates that these trains would occupy the siding for about 15 minutes if everything goes well. Presumably things will not always go as planned and trains will sometimes sit on the siding for longer than 15 minutes.

Penny Road is a dead-end road that serves one residence and several farm fields. The resident submitted a letter objecting to the alteration of the crossing. She states that she is blind in one eye and has limited vision in the other. She also uses a walker for balance. She is concerned about timely emergency access to her property. She is also concerned about the impact on deliveries to her home. She has her groceries delivered. In addition, she is concerned about mail and propane gas deliveries and trash pickup.

A farmer who uses Penny Road to access 250 acres of farmland also submitted a letter objecting to the alteration of the crossing. He is concerned about timely access to and from those fields. A farm crossing that he uses would also be crossed by the siding extension.

The **hearing examiner recommends** that the petition to alter the crossing be **denied**. Penny Road is a dead-end. Trains using the siding would block the only access to the residence at least one hour per day on average under optimal conditions. Emergency access would be blocked for at least 15 minutes each time a train is on the siding. These blockages of the sole access point simply present too great a hazard to public safety. If the railroad could relocate the resident, or provide an additional alternate access route, then the **hearing examiner** would recommend approval of the proposal. Under the existing conditions, the alteration of the crossing at-grade of the Wisconsin Central Ltd. tracks with Penny Road would not promote public safety and convenience.

#### PROPOSED ULTIMATE CONCLUSIONS ON THE ISSUES

That the alteration of the crossing at-grade of Penny Road with the Wisconsin Central Ltd. tracks in accordance with the design plans of the Wisconsin Central Ltd. in the Town of Amherst, Portage County would not promote public safety and convenience.

#### PROPOSED CONCLUSION OF LAW

That the jurisdiction of the Office of the Commissioner of Railroads under §§195.28 and 195.29, Stats., extends to this matter. Accordingly, the Office enters an order consistent with the findings of fact.

#### PROPOSED ORDER

**The hearing examiner recommends:**

1. That the petition of the **Wisconsin Central Ltd.** to alter the crossing at-grade of Penny Road with its tracks in the Town of Amherst, Portage County be **denied**. (Crossing No. 692 501N / MP 231.34)
2. That jurisdiction is retained.

Dated at Madison, Wisconsin, \_\_\_\_\_.

By the Office of the Commissioner of Railroads.

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Douglas S. Wood  
Hearing Examiner